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C O N F I D E N T I A L SECTION 01 OF 03 KABUL 005445

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ISLAMABAD FOR A/S BOUCHER
STATE FOR SCA/FO (DAS GASTRIGHT), SCA/A, S/CRS, INL/FO
STATE PASS TO USAID FOR AID/ANE, AID/CDHA/DG
NSC FOR HARRIMAN
OSD FOR KIMMITT
CENTCOM FOR CG CFC-A, CG CJTF-76, POLAD

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SUBJECT: BOUCHER MEETS WITH AFGHAN JUSTICE LEADERS

REF: A. A) KABUL 05400
 1B. B) SECSTATE 182847

Classified By: Ambassador Ronald Neumann for Reasons 1.4 (B) AND (D)

11. (C) SUMMARY: During their November 8 meetings with Assistant Secretary Boucher, Afghan Chief Justice Azimi and Attorney General Sabit highlighted salary support, added space, housing, and transportation as the major needs to improve the quality of both their institutions. Boucher questioned each on their challenges, the informal justice system, and anti-corruption efforts. Azimi said that a lack of qualified judges and accountability was creating a disconnect with the provinces. He hopes to combat this by increasing communication with the provinces and assigning Supreme Court Justices to oversee and visit each one. The informal system still plays a major role in resolving cases, especially civil cases, but efforts are being made to ensure more criminal cases are reviewed by the formal system. According to Sabit, anti-corruption efforts are impeded by the inability to enforce rulings and orders from the Supreme Court and Attorney General. Boucher and the Ambassador suggested that Sabit focus enforcement efforts on a province with a cooperative governor and police chief, and then build on his successes until he can do more in the north. Overall, donor coordination with regards to both offices will be a key to success. Post will attempt to use the upcoming Dubai meetings to focus international efforts on the justice sector. END
SUMMARY.

Expanding the Reach of the Supreme Court

12. (SBU) During his meeting with Assistant Secretary for South and Central Asian Affairs Richard Boucher in Kabul on November 8, Chief Justice Azimi said that he is looking at the whole court system and trying to use his human capital better. He has selected 50-60 judges to work under him in Kabul and is looking for 34 others to lead in the provinces. These judges will be Provincial Chief Justices and will not only be

administrative heads but also act as Azimi's voice and ears outside the capital. He understands that he cannot control all of the provinces by himself and is making the selection of these judges a priority. According to Azimi, the biggest problem in connecting to the provinces is communication. To address this, he has divided Afghanistan into eight zones and has assigned each to a Supreme Court Justice for them to monitor. He will rotate these zones approximately every six months. He has also asked each province to report back to their respective Justices statistics such as the number of criminal and civil cases and the age of each case. The provinces have begun reporting on a monthly basis. Presently there is no accountability but the Chief Justice hopes that if more attention is paid to the provinces they will become more manageable.

¶3. (SBU) One major roadblock is that many judges lack proper educational credentials. Most of these were appointed during the King's reign, and Azimi is unsure how he will deal with removing or training them. He presently oversees 1500 judges in 335 districts. Only about half of these judges have the appropriate qualifications. Additionally, to retain qualified judges, Azimi's five-year plan hopes to dignify their positions by providing salary supplements, vehicles, and housing.

Informal Justice Systems

¶4. (C) Azimi supports the informal system and said it plays an important role in Afghan culture, history,

KABUL 00005445 002 OF 003

and religion. Both sides have to willingly agree to use the informal shuras, and in many cases it is better than a court. According to Sabit, the informal system largely handles civil cases and most criminal cases are brought to the formal system. This trend needs to be reinforced to prevent unjust informally-reached judgments such as the stoning of adulterers or the transfer of women to settle debts.

Anti-Corruption Efforts

¶5. (C) Originally, Sabit said he thought that corruption was the biggest problem he confronted, but after traveling around the country trying to fight corruption he feels that a lack of rule of law is a bigger issue and feeds corruption. There is an inability to enforce court rulings and orders issued by his office, which limits efforts to prevent corruption and bring corrupt officials to justice. "I don't see how I can go on this way," he said. For example, the Attorney General attempted to arrest the Mayor of Mazar-e-Sharif but was unable to do so because Governor Atta refused to enforce the arrest warrant, demanding that prosecutors present him with the evidence and let him decide the merits of the case. Warlords and former commanders still have impunity in many areas. He added that he also did not want to call on President Karzai to demand his orders be enforced, because if they were not it would only serve to weaken the President's image.

¶6. (C) The president has cautioned Sabit to not open too many high-profile investigations too soon, a sentiment echoed by both Boucher and the Ambassador. The Ambassador recommended that he focus on areas where he can make some progress, areas with supportive governors and police chiefs. The Ambassador also mentioned that Sabit may be able to work with the Germans to have them apprehend some of the people that the Governor is protecting. He also recommended that Sabit focus on areas that the Afghan Security Forces

are already deployed in larger numbers, such as Farah or Ghazni. One of the most important factors will be showing the public that Pashtuns are not exempt from Sabit's anti-corruption campaign. At the end of this discussion the Attorney General said that he would likely go to Khost, where the Governor will cooperate with him.

¶17. (C) Internally, the Attorney General is trying to recruit and utilize younger officers who have not yet been corrupted to revitalize his office. Sabit has also created a new inspector general's office and hopes to create an Afghan Federal Bureau of Investigation with 100 officers to hunt for corruption in the provinces.

Needs of the Attorney General's Office

¶18. (SBU) The Attorney General highlighted his major needs as assistance in recruiting young and newly-trained prosecutors, additional office space, cars, and salary support. He complained there is a severe lack of space with, in some offices, 23 prosecutors sharing three desks. Salaries are also a major issue. He has 458 prosecutors in Kabul, and while he has told them he will not tolerate corruption, they cannot survive on their \$60 a month salary. The Afghan Government has already promised to fund new facilities for the Supreme Court and the Attorney General's Office. Government funding for salaries, however, seems much more unlikely. Until salaries begin to improve, Sabit requested help to improve the prosecutors' quality of life, such as, opening a store with subsidized food and a medical clinic to care for employees and their families. The Chief Justice has

KABUL 00005445 003 OF 003

made similar requests for housing, transportation, and salary support.

Comment

¶19. (SBU) Coordination on rule of law issues has begun to improve with the arrival of the new Embassy Rule of Law Coordinator and a willingness of the international community to work together. Boucher said that there is a great deal of international interest right now and that the European Commission, Germany, United Kingdom, and Italy seem keenly interested in the justice sector. The Embassy and INL in Washington have been working together to bring donors together in Dubai for a working level conference to address many of the issues brought up by the Chief Justice and Attorney General. In particular, the Chief Justice's five year plan and the needs of the Attorney General's office have been highlighted for discussion. The Embassy has been discussing using Afghan strategies as a basis for meeting Afghan National Development Strategy benchmarks and hopes to expand this debate to the international community in Dubai. END COMMENT.

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